



STATE OF ILLINOIS
OFFICE OF THE GOVERNOR
SPRINGFIELD, ILLINOIS 62706

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GOVERNOR

POLICY REGARDING INDIVIDUAL ASSIGNMENT OF STATE VEHICLES
(April 12, 2010)

1. **Approval of Vehicle Assignment** – Individual assignment of a State vehicle to a State employee may be approved by an agency head if it meets the requirements outlined in 44 Ill. Adm. Code 5040.340 (Assignment to Individuals), attached hereto. Pursuant to 44 Ill. Adm. Code 4050.340, agencies are required to provide complete and accurate annual reports to the Department of Central Management Services regarding individually assigned vehicles and are required to provide timely updates and justifications, no later than 30 days after an occurrence, regarding any changes in the individual assignment of vehicles, including any new, terminated, or transferred assignments.
2. **Relevant Considerations** – In addition to 44 Ill. Adm. Code 5040.340, the following considerations shall apply when determining whether an employee may be assigned a State vehicle:
 - a. Vehicles may not be assigned as a form of compensation, as a benefit, or based solely on an employee's title. Vehicles may be assigned based on justification of use and only if the assignments are in the State's best interests, as set forth below.
 - b. The determination of whether the assignment of a State vehicle to a State employee is in the best interests of the State shall be based on an analysis of relevant factors, including, but not limited to, (i) fuel costs, (ii) miles driven per year for State business and commuting purposes, and (iii) the need of the employee to respond to emergencies and/or to utilize specialized equipment or vehicle types in connection with his or her State job duties.
 - c. As a general matter, unless it is in the best interests of the State, commuting miles should not exceed 30% of miles driven. Commuting miles over 30% of total annual miles should be carefully evaluated by agency heads. Agency heads must ensure that the vehicle assignment is the best option for the State as a matter of transportation efficiency and economy. Agencies should be

prepared to provide justification for assignments where the 30% guideline is exceeded.

d. Certain vehicle uses, including, but not limited to, those listed below, may qualify an employee for an individually assigned vehicle, subject to agency head approval and when other criteria noted above apply:

- i. Construction/Road Clearing
- ii. Emergency Services
- iii. Inspection/Regulatory
- iv. Law Enforcement
- v. Maintenance/Repair
- vi. Technical Support
- vii. Traffic Safety
- viii. Training
- ix. Field/ Territory Responsibilities (e.g., outreach personnel who do significant travel, a meat/poultry inspector from IL Dept. of Agriculture)
- x. Management Program (i.e., individuals who supervise employees that work in the field or a territory and are required to regularly travel to perform such supervision)

3. **Applicability of Authorized Uses** – Driver employees who are individually assigned a State vehicle remain subject to and limited by the authorized uses outlined in 44 Ill. Adm. Code 5040.350 (Authorized Use), attached hereto.

4. **Compliance with Tax Rules and Laws** – Agency fiscal officers (usually an agency's Chief Financial Officer), along with the driver employees who have been individually assigned a vehicle, are responsible for ensuring that employees approved for individually assigned vehicles are in compliance with all applicable rules and laws relating to taxable fringe benefits. In general, any personal use by employees of individually assigned vehicles, including commuting use authorized under 44 Ill. Adm. Code 5040.350, is a taxable fringe benefit. The definitions and specific Federal income tax regulations ("Treasury regulations") are in § 1.274-6T(a)(3). Treasury regulation § 1.274-6T(a)(3) applies to individually assigned vehicles, and prohibits all personal use of those vehicles other than commuting and de minimis personal use. The Department of Revenue, Legal Services Division, is available at 217-782-7055 to assist with any questions relating to taxes.

5. **Commuting as Taxable Fringe Benefit Under Federal Tax Law** – Specifically, as to commutes with individually assigned State vehicles, per Federal Treasury regulation § 1.61-21(f)(3) and, to the extent not already implemented by an agency, retroactive to January 1, 2010, an agency will include in the assigned driver's gross income as a taxable fringe benefit \$1.50 per commute for each work day (\$3.00 for a round-trip) the vehicle is used, regardless of work location or headquarters. Commutes will be included on a monthly Vehicle Log submitted by each assigned driver

to each agency's designated recipient and collector of the Logs. The applicable commuting taxable fringe benefit, required by Federal tax law, will be included by the agency in each affected employee's gross income at least annually, but as frequently as each pay period, and will be included as part of each employee's yearly W-2. Employees' failure to report their commuting properly can result in additional amounts included in their income. This taxable fringe benefit and the \$1.50 per commute gross income do not apply to qualified nonpersonal use vehicles as defined in Treasury regulation § 1.274-5T(k).

6. **Compliance with Insurance Requirements** – Agencies and driver employees are responsible for ensuring compliance with the insurance requirements for individually assigned vehicles per 625 ILCS 5/Ch. 7 Article VI. Mandatory Insurance, Section c. and to carry liability coverage extending to the employees when the assigned vehicles are used for other than official State business or to file a bond in lieu of such liability insurance. Annual certification in this regard is required between July 1 and July 31 of each year or within 30 days of a new vehicle assignment.

Section 5040.340 Assignment to Individuals

Vehicles may be assigned to specific individuals if authorized in writing by the head of the agency to which the vehicle is assigned. Agencies will be required to report to DCMS annually and when changes occur the name of each employee assigned a vehicle, the equipment number and license plate number of the assigned vehicle, employee's headquarters, and residence. Such authorization is to be granted only if one or more of the following conditions are met:

- a) The vehicle is specially equipped to perform law enforcement services and the law enforcement employee is on call 24 hours a day.
- b) The employee's work assignment requires traveling to numerous locations over a considerable territory with infrequent stops at the employee's headquarters as defined in the regulations concerning State employee travel.
- c) When the employee is a State official confirmed by the State Senate or acting in the capacity of such a State official.
- d) When the employee is regularly subject to special or emergency calls from his/her residence during non-duty hours.
- e) Vehicles usage will be in accordance with the provisions of Section 5040.270 (b) of this Part.

(Source: Amended at 7 Ill. Reg. 2483, effective March 1, 1983)

Section 5040.350 Authorized Use

- a) State-owned vehicles shall only be used for public purposes and in the best interests of the State. When performing official duties on behalf of the State, authorized uses include:
 - 1) travel between places of State business, places of temporary lodging, places to obtain meals, and/or other locations necessary to perform official duties;
 - 2) travel to/from places to obtain emergency medical assistance or supplies;
 - 3) transport of:
 - A) other State officers or employees who are on official State business;
 - B) consultants or contractors working on behalf of the State;
 - C) commercial firm representatives working with the State;
 - D) wards of the State;
 - E) residents of State facilities or institutions; and
 - F) others as authorized in writing by an agency head;
 - 4) transport of materials, equipment, supplies, tools, parcels, luggage, or other items necessary or required to perform official duties;
 - 5) operation of a State vehicle by a State contractor when required to meet the needs of a State contract and when authorized in writing by an agency head;
 - 6) operation of a State vehicle when on a travel-related assignment (including, but not limited to, pick-up and return of a vehicle and necessary commuting);
 - 7) commuting in an assigned vehicle when one of the conditions set forth in Section 5040.340 of this Part is met and the employee has complied with:
 - A) the certification requirements of Section 7-601 of the Illinois Vehicle Code [625 ILCS 5/7-601]; and

- B) all applicable reporting requirements of the Office of the Comptroller;
 - 8) operation of a specially equipped vehicle where a State official or employee is required to have constant access to the equipment in the vehicle (for purposes of this Section, "specially equipped vehicle" means a vehicle equipped with communications equipment regularly used to transmit over a network of the Emergency Management Agency); and
 - 9) any other use when for public purposes and in the best interests of the State, and authorized in writing by an agency head.
- b) Unauthorized use of a State-owned vehicle includes, but is not limited to:
- 1) transportation for shopping, meals, entertainment, recreation or vacation purposes unrelated to the performance of official State business;
 - 2) transport of any person for any purpose unrelated to official State business;
 - 3) operation of a vehicle beyond the vehicle's rated capability;
 - 4) transport of materials, equipment, supplies, tools, parcels, luggage, or other items unrelated to the performance of official State business;
 - 5) transport of hazardous or dangerous materials such as acids, explosives, weapons, ammunition, or highly flammable materials unless authorized in writing by an agency head or in an emergency;
 - 6) transport of items or equipment that may constitute an obstruction of safe driving or hazard to pedestrians or other vehicles; and
 - 7) any use in violation of applicable statute, rule, or executive order.
- c) Any employee or official using a State vehicle in a manner contrary to this Section shall be personally responsible for and assume the risk of:
- 1) personal injury to the employee/official and to third parties; and
 - 2) damage to the property of the employee/official, the State, and third parties.

- d) Agencies are responsible for establishing written policies and procedures to ensure all vehicle use is in accordance with this Section. In the event of a violation of this Section, the user's agency head:
 - 1) is responsible for instituting corrective action, which may include discipline up to and including discharge; and
 - 2) shall require and verify the user has paid the State for each mile or fractional mile of unauthorized use. Payment to the State shall be equal to the amount reimbursed to State employees for the use of personal vehicles (see 80 Ill. Adm. Code 3000.300(f)(2)).
- e) Agencies may establish policies consistent with or more restrictive than the rules set forth in this Section.

(Source: Amended at 25 Ill. Reg. 6221, effective April 17, 2001)